

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

IN RE:	October 20, 2005)	
)	
PETITION FOR APPROVAL OF TENNESSEE)	DOCKET NO.
WASTEWATER SYSTEMS, INC, TO EXPAND)	05-00111
ITS SERVICE AREA TO INCLUDE A PORTION)	
OF BEDFORD COUNTY, TENNESSEE, KNOWN)	
AS THE BLACKBERRY RIDGE, LLC)	

ORDER APPROVING PETITION TO AMEND
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

This matter came before Chairman Ron Jones, Director Pat Miller and Director Sara Kyle of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this Docket, at a regularly scheduled Authority Conference held on July 11, 2005 to consider the *Petition of Tennessee Wastewater Systems, Inc. to Amend its Certificate of Convenience and Necessity* (the "*Petition*") requesting that the Authority expand its service area to include a portion of Bedford County, Tennessee known as the Blackberry Ridge, LLC.

Background

On April 6, 1994, Tennessee Wastewater Systems, Inc.¹ ("TWS" or "Company") received a Certificate of Public Convenience and Necessity ("CCN") in Docket No 93-09040 from the Tennessee Public Service Commission to provide wastewater service to the Oakwood Subdivision in Maury County. Since that time, through various other dockets, the Company has been granted approval to expand its service territory to include other areas in Tennessee. The Company's principal office is located in Nashville, Tennessee

¹ Tennessee Wastewater Systems, Inc. was formerly known as On-Site Systems, Inc. This name change was effected by the TRA's order of February 19, 2004, in Docket No. 03-00518

TWS filed the *Petition* in this matter on April 22, 2005. The Authority issued a Data Request April 29, 2005. TWS provided a response to the Data Request in a timely manner. TWS filed the Pre-filed Direct Testimony of Charles Pickney, Jr. on May 25, 2005.

Legal Standard for Granting Certificate of Public Convenience and Necessity

No public utility is permitted to begin construction or operation of a new utility facility or service before obtaining approval of the Authority. The procedure for obtaining a CCN evidencing such approval is set forth in Tenn. Code Ann. § 65-4-201(a) (2004), which states as follows:

(a) No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the authority, after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate

The *Petition*

On April 22, 2005, TWS filed the *Petition* requesting that its service area be expanded to include a portion of Bedford County, Tennessee known as the Blackberry Ridge, LLC. According to the *Petition*, the Company seeks to initially provide only residential service to the area. TWS attached several documents to its *Petition* in support of its request to expand its service area. TWS attached a letter from the developer expressing its desire that TWS provide service to the property. In addition, TWS attached letters from each of the three other potential wastewater service providers stating that none of the potential providers currently serves the area. The letters also indicate that none of the other potential wastewater service providers intends to extend wastewater service to Blackberry Ridge, LLC.² The Company also filed with the *Petition* a billing summary listing the

² See *Petition* (unnumbered attachments) (April 22, 2005). Letter from John W. Davis and Jim Jarrell, Davis Stokes Collaborative, P.C. to Charles Pickney, President, Tennessee Wastewater Systems, Inc. (March 16, 2005); Letter from David H. Crowell, General Manager for Shelbyville Power Water & Sewerage System, Shelbyville, Tennessee (January 4, 2005); Letter from Martin Davis, President, Bedford County Utility District (January 14, 2005); Letter from Jimmy Woodson, Bedford County Mayor, Bedford County, Tennessee (December 29, 2004).

Company's residential customers with the corresponding residential sewer rates and a service area map showing the proposed location of Blackberry Ridge, LLC.³ As noted in the billing summary, a \$35.11 residential sewer rate will apply to Blackberry Ridge, LLC.

The July 11, 2005 Authority Conference

Pursuant to Tenn. Code Ann. § 65-4-201(a) (2004), public notice of the Hearing in this matter was issued by the Hearing Officer on June 16, 2005. No person sought intervention prior to or during the Authority Conference. At the Authority Conference, held on July 11, 2005, Mr. Charles Pickney, President of TWS, participated, presented testimony and was subject to examination by the panel. Mr. Pickney moved to have his Pre-Filed Testimony entered into the record in this matter at the Authority Conference. The Pre-Filed Testimony states that the Company has the managerial, technical and financial ability to provide wastewater services to Blackberry Ridge, LLC.⁴ Additionally, the panel took administrative notice of TWS's 2004 annual report filed with the Authority. At the time of the Authority Conference, TWS had not yet received a final approved permit from the Tennessee Department of Environment and Conservation ("TDEC") for the system.

Based upon the evidentiary and administrative record as a whole and relying on the legal criteria set forth in Tenn. Code Ann. § 65-4-201(a) (2004), the panel voted unanimously to grant approval of the *Petition* subject to receipt of a final approved permit from TDEC evidencing its approval of the Company's application to provide service to Blackberry Ridge, LLC. The panel also ordered that TWS notify the Authority in writing at the time it receives an operating permit from TDEC for the Blackberry Ridge, LLC.⁵

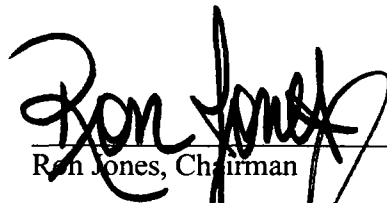
³*Petition*, (unnumbered attachments) (April 22, 2005) The Company also provided a rate schedule for commercial sewer rates

⁴ Charles Pickney, Jr., Pre-Filed Testimony, p. 1 (May 25, 2005)


⁵ On September 8, 2005, TWS provided notice to the Authority that the Company received the necessary permit from TDEC

IT IS THEREFORE ORDERED THAT:

1. The *Petition of Tennessee Wastewater Systems, Inc. to Amend its Certificate of Convenience and Necessity* to expand its service area to include Blackberry Ridge, LLC in Bedford County, Tennessee, as shown in the map attached to the *Petition* is approved subject to receipt of a final approved permit from the Tennessee Department of Environment and Conservation.
2. The Petitioner's rates for wastewater service shall be as listed in the rate schedules filed with the *Petition* and as set forth in this Order.
3. Tennessee Wastewater Systems, Inc. shall provide written notification to the Authority once it has received a final approved permit evidencing the Tennessee Department of Environment and Conservation's approval of Tennessee Wastewater Systems, Inc.'s application to provide service to Blackberry Ridge, LLC in Bedford County, Tennessee.



Ron Jones, Chairman



Pat Miller, Director



Sara Kyle, Director